

**LOCAL RULES OF PRACTICE
FOR THE CIRCUIT AND SUPERIOR COURTS
6TH JUDICIAL CIRCUIT, SCOTT COUNTY, INDIANA**

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LR72-CR2.2-1

ASSIGNMENT OF CRIMINAL CASES

The Courts of Scott County, Indiana, adopt the following rules for the assignment of criminal cases and the selection of special judges in criminal cases:

(A) All cases wherein the most serious charge is a Class C Felony or above shall be filed in Circuit Court.

(B) All cases wherein a person is charged with a felony and that person is currently on probation under a conviction in Circuit Court, or, that person has a pending unresolved case in Circuit Court shall be filed in Circuit Court.

(C) All cases wherein the factual basis for the criminal charges, also, is the factual basis in the Circuit Court under Indiana Code 31-34 et. seq., Child In Need of Services, shall be filed in Circuit Court.

(D) All cases wherein a person is charged under Indiana Code Title 20, Compulsory School Attendance Law, shall be filed in Circuit Court.

(E) All juvenile delinquency cases shall be filed in Circuit Court and if there is a waiver from juvenile court into adult court, the case shall be filed in Circuit Court.

(F) All other criminal cases and infractions shall be filed in Superior Court.

(G) Any cases which may be joined by statute shall be treated as one case for purposes of determining which court shall be selected. The highest charge filed shall determine selection.

(H) When there is a recusal by the sitting Judge or when a motion for change of Judge has been granted, the Clerk shall assign a judge randomly from the following list:

- | | | | |
|----|-------------------|---|---------------------------|
| 1. | Jon W. Webster | - | Jennings Circuit Court |
| 2. | Ted Todd | - | Jefferson Circuit Court |
| 3. | Fred Hoying | - | Jefferson Superior Court |
| 4. | Robert L. Bennett | - | Washington Circuit Court |
| 5. | Frank Newkirk | - | Washington Superior Court |
| 6. | Bruce Markel | - | Jackson Superior Court |
| 7. | James Funke, Jr. | - | Jennings Superior Court |

(I) In the event a case is dismissed and refilled, the Judge last having jurisdiction in the dismissed case shall be the judge in the new case.

(J) Criminal cases for which the factual basis to support the filing of a criminal charge occurred before December 31, 2004 shall be filed in the Scott Superior Court.

(K) Criminal cases in the Scott Circuit Court for which there was a disposition prior to January 1, 2005 and for which there is filed a motion, pleading or notice of any nature, other than a petition for post conviction relief or a probation revocation proceeding, shall, if accepted, be transferred to or addressed by the Scott Superior Court or referred to a Senior Judge for further disposition. A petition for post conviction relief or a probation revocation proceeding shall, if accepted, be transferred to the Scott Superior Court or assigned a new Judge pursuant to Section H of this Rule.

This rule shall be effective as soon as approved by the Indiana Supreme Court pursuant to Criminal Rule 2.2.

DISCOVERY

(A) Generally. At the time of the Initial Hearing, the Court shall enter its general order on discovery applicable to both the State of Indiana and the defendant.

(B) Compliance by State. The State of Indiana shall comply with the Court's discovery order and provide discovery to the defendant within thirty (30) days of the initial hearing. Such discovery shall be supplemented as it becomes available to the State.

(C) Compliance by Defendant. The Defendant, by counsel, shall comply with the Court's discovery order and provide discovery to the State of Indiana within forty-five (45) days of the initial hearing. Such discovery shall be supplemented as it becomes available to the Defendant.

I. STATE DISCLOSURE

The State shall disclose to the defense the following material and information within its possession or control on or before 30 days of the date of the initial hearing in this cause.

a). The names and last known addresses of persons whom the State may call as witnesses, together with their relevant written or recorded statements, memoranda containing substantially verbatim reports of their oral statements and a list of memoranda reporting or summarizing their oral statements.

b). Any written or recorded statements and the substance of any oral statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgement of such statements.

c). A transcript of those portions of Grand Jury minutes containing testimony of persons whom the prosecuting attorney may call as witnesses at the hearing or trial, as designated by the defense after listening to the recording of testimony.

d). Any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons.

e). And books, papers, documents, photographs or tangible objects which the prosecuting attorney intends to use in hearing or trial or which were obtained from or belong to the accused.

f). A record of prior criminal convictions which may be used for impeachment of the persons whom the State intends to call as witnesses at the hearing or trial.

g). Any evidence which tends to negate the guilt of the accused as to the offense charged or would tend to mitigate his punishment.

The State may perform these obligations in any manner mutually agreeable to itself and defense counsel or by notifying defense counsel that material and information described in general terms may be inspected, obtained, tested, copied or photographed, at specified reasonable times and places.

II. DEFENDANT DISCLOSURE

The defense shall disclose to the State the following material and information within its possession or control on or before 45 days of the date of the initial hearing in this cause.

a). The names and addresses of persons whom the defendant may call as witnesses along with a copy of their written statements or a summary of their oral statements and a record of their prior criminal convictions.

b). Any books, papers, documents, photographs, or tangible objects which are intended to be used at a hearing or trial.

c). Any medical or scientific reports relating to defendant or defendant's evidence which may be used at a hearing or trial.

d). A defense, procedural or substantive, the defendant intends to make at a hearing or trial.

III. Any objections to discovery order must be filed within 21 days of the date of the initial hearing in this cause.

IV. Discovery is continuing Order through trial. No written motion is required except to compel discovery for a protective order or for an extension of time.

COURT REPORTER SERVICES

(A) Definitions. The following definitions shall apply under this Local Rule.

[1] *Court Reporter* – a person who is specifically designated by- a court to perform the official court reporting services for the court including preparing a transcript of the record.

[2] *Equipment* – physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, storing and transcribing electronic data.

[3] *Work space* – that portion of the court’s facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

[4] *Page* – the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.

[5] *Recording* – the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

[6] *Regular hours worked* – those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.

[7] *Gap hours worked* – those hours worked that are in excess of the regular hours worked but not in excess of forty (40) hours per work week.

[8] *Overtime hours worked* – those hours worked in excess of forty (40) hours per work week.

[9] *Work week* – a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

[10] *Court* – the particular court for which the court reporter performs services. Court may also mean all the courts in Scott County.

[11] *County indigent transcript* – a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

[12] *State indigent transcript* – a transcript that is paid for from state funds and is for the use of a litigant who has been declared indigent by a court.

[13] *Private transcript* – a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

(B) Salaries. Court reporters shall be paid an annual salary for regular hours spent working under the control, direction and direct supervision of the Court. Said salary shall be determined annually by the Court and shall be paid as other County salaries are paid.

1.
 - a. Regular working hours shall be 35 hours per week.
 - b. Gap hours shall be hours worked in excess of 35 hours but not in excess of 40 hours per week.
 - c. Overtime hours shall be hours worked in excess of 40 hours.
2. That for any gap or overtime hours worked, the Court and the Court Reporter shall enter into a written agreement whereby compensation for such work shall be as follows:
 - a. Compensatory time off from regular work hours shall be given in an amount equal to the number of gap hours worked, and
 - b. Compensatory time off from regular work hours shall be given in the amount of one and one half (1 ½) times the number of overtime hours worked.

(C) Per Page Fees. The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be four dollars and fifty cents (\$4.50) per page. The court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.

The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be four dollars and fifty cents (\$4.50) per page.

The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be four dollars and fifty cents (\$4.50) per page.

If the Court Reporter is requested to prepare an expedited transcript, the maximum per page fee shall be \$7.00 per page where the transcript must be prepared within 24 hours or less and \$5.50 per page where the transcript must be prepared within three working days. Index and Table of Contents will be charged at the same rate as the other pages.

(D) Minimum fee. A minimum fee of forty five dollars (\$45.00) will be charged for transcripts less than ten (10) pages in length.

(E) Binding and Disk Fees. An additional fee shall be added to the costs of the transcript for:

1. The time spent binding the transcript and the exhibit and index and index volumes at an hourly rate based on the court reporter's hourly rate.
2. The costs of office supplies required and utilized for binding and transmission of the transcript pursuant to Indiana Rules of Appellate Procedure 28 and 29. Said costs shall be pursuant to a Schedule of Transcript Supplies, established and published annually by the courts.

(F) Annual Report Requirements. Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(G) Private Practice. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing a deposition transcript, all such private practice work shall be conducted outside regular working hours and the Court's equipment, work space and supplies shall not be used for such purposes.

(H) Disk as Official Record. Upon the filing of a written request or praecipe for transcript, the court reporter shall transcribe any court proceeding requested and produce an original paper transcript along with an electronically formatted transcript. Multiple disks containing the electronically formatted transcript shall be prepared and designated as "Original Transcript", "Court Reporter's Copy", and "Court's Copy". Each disk shall be labeled to identify the case number, the names of parties, the date completed, the court reporter's name and the disk number if more than one disk is required for a complete transcript. The court's copy of the electronic transcript shall become the official record of the court proceeding, in lieu of a paper copy of the transcript, and shall be retained in the court where said proceeding was held. The court reporter's copy shall be retained by the court reporter. The original paper transcript along with the disk designated as the original transcript shall be forwarded to the Clerk of the transcript was prepared for the purposes of appeal. If the transcript was not prepared for purposes of appeal, the original paper transcript shall be delivered to the requesting party.

LR72-AR1-4

ALLOCATION OF JUDICIAL RESOURCES

1. Not later than October 1 of each year, all regular Judges of the courts of record in Scott County shall meet, in person, telephonically, or by other means, and shall evaluate each court's caseload data, as reported to the Division of State Court Administration.

2. The caseload evaluation shall factor in any special circumstances such as death penalty cases.

3. Service as transfer judge or special judge. Time spent doing special or transfer judge service by each judge outside his or her court and special judge service or transfer judge service in each court shall also be included.

4. Based upon the foregoing caseload evaluation for each court within the county, the Designated Judge shall develop and maintain a roster reflecting the weighted caseloads of each court and the judicial officer need or surplus in each court. Any plan for adjustment of caseload should then compare that need or surplus to the county range. The county range being the county average, + or - 40 percentage points.

5. Should the above said evaluation indicate that the weighted caseloads of any court are not within the county range, the judges shall adopt a plan whereby (a) case type filings are shifted, (b) causes are transferred between courts pursuant to I.C. 33-29-1-9, (c) Judges sit as Judge of the other court pursuant to I.C. 33-29-1-10, as to bring all courts within the range.

LR72-JR2-5

JURY SYSTEM

Pursuant to Indiana Jury Rule 4 the Courts adopt the Single Tier Notice and Summons provision. That is the Jury Administrators shall send a Summons at the same time the Jury Qualification form and notice is mailed.

LR72-AR00-6

TRANSFER

The Judge of the Circuit Court or Superior Courts in accordance with I.C. 33-5-9.7-14, by appropriate order entered in the Record of Judgments and Orders, may transfer and reassign to another court of record in the county a pending felony, misdemeanor or infraction, provided the receiving court has jurisdiction to hear such case and accepts jurisdiction of such matter.

LR72-AR00-7

AUTHORITY TO ACT AS SITTING JUDGE

The Judge of Circuit Court or Superior Court may in accordance with I.C. 33-29-1-10 sit as Judge of the other court in any matter as if that judge were elected to that court.

LR72-AR12-8

FACSIMILE TRANSMISSION

Pursuant to Rule 5 of the Indiana Rules of Trial Procedure and Indiana Administrative Rule 12; the Scott Circuit Court and the Scott Superior Court authorize electronic facsimile filing and designate 812-752-8431 for the Scott Circuit Court and 812-752-8425 for the Scott Superior Court. Filing by electronic facsimile transmission shall be subject to the requirements of Indiana Administrative Rule 12. In addition to the provisions, the party submitting the filing by electronic facsimile transmission shall submit an original document to the respective court. The courts may by joint order assess an electronic facsimile transmission fee pursuant to Indiana Administrative Rule 12(E).

LR72-TR79-9

APPOINTMENT OF SPECIAL JUDGES

- A. Selection of Assignment Judge. On or before October 1st of each year, the Judges of the Circuit and Superior Courts of Scott County shall meet with the presiding judges of Administrative District 14 for the purpose of selecting a judge designated as the assignment judge who shall serve the Administrative District for a period of twelve (12) months.
- B. Section H Appointments. In the event it becomes necessary to appoint a special judge under Section H of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before the case is pending shall send notice of the need of the appointment of a special judge to the Administrative District's assignment judge who shall then make such assignment within five (5) days of receiving said notice.
- C. Method of Assignment. The Administrative District's assignment judge shall select special judges from a roster of the available judges in the Administrative District. The assignments shall be a sequential order beginning with the name of the judge following the last judge so assigned. If, however, because of travel considerations a judge has been passed over or if a judge is otherwise disqualified to hear a particular case, that judge shall be deemed to be the next in sequence until assigned a case. The assignment judge shall maintain a record of all assignments and shall issue a summary report of the assignments on a quarterly basis.
- D. Travel Considerations. In making the selection of a special judge, the assignment judge shall consider that travel of more than forty (40) miles in one direction is not effective use of judicial resources.
- E. Roster of Available Judges. The roster of available judges in Administrative District 14 shall be maintained by Court designation in the following sequential order and shall include senior judges as available.
- | | | | |
|-----|-------------------|------|--------------------------------|
| (1) | Clark Circuit | (10) | Harrison Superior |
| (2) | Clark Superior #1 | (11) | Orange Circuit |
| (3) | Clark Superior #2 | (12) | Orange Superior |
| (4) | Clark Superior #4 | (13) | Scott Circuit |
| (5) | Crawford Circuit | (14) | Scott Superior |
| (6) | Floyd Circuit | (15) | Washington Circuit |
| (7) | Floyd Superior | (16) | Washington Superior |
| (8) | Floyd County | (17) | Senior Judges approved for the |
| (9) | Harrison Circuit | | requesting Court. |
- F. Appointment Order. Upon selecting a special judge, the assignment judge shall prepare an Order of Appointment and forward said Order to the judge before whom the case is pending who shall then sign and enter the Order of Appointment and forward a copy of the Order to the special judge and the attorneys of record.

- G. Acceptance of Jurisdiction. The Order of Appointment, when entered by the judge before whom the case is pending, shall constitute acceptance of jurisdiction by the appointed special judge unless the judge is otherwise disqualified, and no special appearance, oath or additional evidence of acceptance shall be required.
- H. Form of Order. The Order of Appointment shall be in the following form:

IN THE _____ COURT FOR _____ COUNTY
STATE OF INDIANA

(Caption)

ORDER OF APPOINTMENT

Under the provisions of Trial Rule 79(H) of the Indiana Rules of Trial Procedures, the Honorable _____ of the _____ Court of _____ County is hereby appointed to serve as special judge in the above-captioned case.

SO ORDERED THIS _____ DAY OF _____, _____.

Judge, _____ Court

Assigned this _____ day of _____, _____.

Administrative District #14
Assignment Judge

- I. Implementation of Rule. In the event a selected Judge does not accept an appointment to serve as a special Judge under the provisions of section (D), (E) or (F) of Trial Rule 79 of the Indiana Rules of Trial Procedure, the judge before whom the case is pending shall notify the assignment judge of the need for an appointment of a special judge under this local rule.
- J. Certification to Supreme Court. If, under the provisions of this rule, no judge is eligible to serve as a special judge in a case, the assignment judge shall notify the judge before whom the case is pending who shall then certify such fact to the Indiana Supreme Court for the appointment of a special judge.
If the judge before whom the case is pending is of the opinion that the particular circumstances of a case warrants selection of a special judge by the Indiana Supreme Court, said judge shall certify such facts to the Indiana Supreme Court for the appointment of a special Judge. Under such circumstances this Rule shall not be implemented unless the Indiana Supreme Court declines to appoint a special Judge.

DRUG AND ALCOHOL PROGRAM FEES

Comes now the SCOTT County Courts, who collectively find and order as follows:

**SCOTT SUPERIOR COURT
ALCOHOL AND DRUG PROGRAM**

1.	DRIVING WHILE INTOXICATED, DUI/OWI	\$400.00
2.	POSSESSION OF A CONTROLLED SUBSTANCE OR PARAPHERNALIA	\$400.00
3.	PUBLIC INTOXICATION	\$300.00
4.	ILLEGAL CONSUMPTION OR POSSESSION	\$300.00
5.	OTHER ALCOHOL AND/OR DRUG OFFENSE	\$400.00
6.	TRANSFER FEE	\$100.00
7.	PRE TRIAL DIVERSION PLAN	\$300.00
8.	ASSESSMENT W/RECOMMENDATION	\$150.00
9.	TREATMENT REFERRAL & CASE MANAGEMENT	\$175.00
10.	EDUCATION AND CASE MANAGEMENT	\$300.00